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INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND THE GENDER PERSPECTIVE

VIOLENCE AGAINST WOMEN

Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights resolution 2001/49

Cultural practices in the family that are violent towards women

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Executive summary

The universal standards of human rights are often denied full operation when it comes to the rights of women. Throughout the world, there are practices in the family that are violent towards women and harmful to their health. Young girls are circumcised, live under severe dress codes, are given in prostitution, denied property rights and killed for the sake of honour in the family. This report documents a number of cultural practices which violate women's human rights to bodily integrity and to expression, as well as undermining essential values of equality and dignity. These practices and many others constitute a form of domestic violence but have avoided national and international scrutiny because they are seen as cultural practices that deserve tolerance and respect.

Cultural relativism is often used as an excuse to permit inhumane and discriminatory practices against women in the community, despite clear provisions in many human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women, in accordance with which States parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women (art.5).

The Special Rapporteur provides extensive empirical evidence of the various types of cultural practice in the family found in different parts of the world that are violent towards women. All cultures have certain practices that deny women their rights and dignity. The Special Rapporteur records evidence of such practices in the hope that States will take immediate action to help eradicate those that are violent towards women.

The Special Rapporteur gives special attention in the report to dominant ideologies and structures within societies that perpetuate cultural practices that are violent towards women, including the regulation of female sexuality and masculinity and violence. Many of the cultural practices discussed in the report are based on a society's belief that the freedom of a woman, especially her sexual identity, should be curtailed and regulated. Many scholars have pointed out that the fear of female sexuality and its expression are responsible for many of the regimes of law that operate in the cultural sphere. These ideologies and structures emerged in a different era but continue to be harmful to women and to dominate public opinion and individual lifestyles, thus preventing the eradication of practices that are harmful to women.

The report emphasizes State responsibility to eradicate violence in the family and documents the positive developments strategies to deal with harmful cultural practices developed by States in cooperation with women's organizations.

The report concludes with recommendations from the Special Rapporteur on ways to eliminate cultural practices that are violent towards women. The Special Rapporteur recommends that women from the various communities should be listened to and assisted to transform harmful practices without destroying the rich cultural tapestry of their societies which makes up their identity. She urges States not to invoke any custom, tradition or religious consideration to avoid their obligation to eradicate violence against women and the girl child in

the family. Instead, she suggests, States should develop penal, civil and administrative sanctions in domestic legislation to punish violence in the family and provide redress to women victims, even if the violence is associated with a cultural practice. The penal sanction should be strong and effective and not merely on paper. Furthermore, States should develop national plans of action to eradicate violence in the family, particularly violence relating to cultural practices, through health and education programmes at the grass-roots level. Finally, States should adopt all appropriate measures in the field of education to modify the social and cultural patterns of conduct that foster cultural practices in the family that are violent towards women.

Preface

The Commission on Human Rights, at its fifty-sixth session, in its resolution 2001/49, took note with appreciation of the report of the Special Rapporteur on violence against women, its causes and consequences (E/CN.4/2001/73 and Add.1-2) and encouraged her in her future work.

In follow-up to her previous reports on violence against women in the family (E/CN.4/1995/42, E/CN.4/1996/53, and E/CN.4/1999/68), the present report focuses on cultural practices in the family that are violent towards women.

Working methods

In an attempt to provide a systematic review of States' compliance with their international obligations with respect to eradicating cultural practices that are violent towards women, the Special Rapporteur requested Governments and non-governmental organizations to provide her with written accounts on how State practice and policy have dealt with such practices. In particular, the Special Rapporteur asked for information on the follov .ng:

(a) Studies that have been carried out on these issues;

(b) Any national, regional and international initiatives that have been taken to combat the problems;

(c) Legal or other resources available;

(d) Statistics in order to evaluate the impact of laws and policies.

The Special Rapporteur would like to express her gratitude to all States and non-governmental organizations that provided information, which contributed significantly in the preparation of her report.

The Special Rapporteur also constituted a research team from experts around the world to assist her in reporting to the Commission on matters relating to cultural practices. The results of its research are included in the present report.[1]

Country visits

The Special Rapporteur would like to draw the attention of the Commission on Human Rights to the reports of her missions in 2001 to Sierra Leone and Colombia (E/CN.4/2002/83/Add.2 and 3). The Special Rapporteur would like to take this opportunity to

express her appreciation to the Governments of Sierra Leone and Colombia for facilitating her visit and enabling her to meet with all relevant interlocutors, both governmental and non-governmental, in both countries.

The Special Rapporteur regrets that her visit to Russia with respect to the situation in the Republic of Chechnya, scheduled for 2001, did not take place, as the proposed dates were not suitable for the Government, and hopes that the visit will take place in 2002.

I. INTRODUCTION

1. Throughout the world, there are practices in the family that are violent towards women and harmful to their health. Young girls are circumcised, live under severe dress codes, given in prostitution, denied property rights and killed for the sake of honour in the family. These practices and many others constitute a form of domestic violence but have avoided national and international scrutiny because they are seen as cultural practices that deserve tolerance and respect. The universal standards of human rights are often denied full operation when it comes to the rights of women. Cultural relativism is therefore often an excuse to allow for inhumane and discriminatory practices against women in the community. In the next century, the problems posed by cultural relativism, and the implications for women's rights, will be one of the most important issues in the field of international human rights.

2. The Convention on the Elimination of Discrimination against Women is extremely clear. Article 5 states:

> "State Parties shall take all appropriate measures:
>
> (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.
>
> ..."

3. Article 2 of the Convention states: "State Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women ...".

4. The Declaration on the Elimination of Violence against Women, solemnly proclaimed by the General Assembly in its resolution 48/104, also states clearly, in article 4, "States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination".

5. Despite these international norms and standards, the tension between universal human rights and cultural relativism is played out in the everyday lives of millions of women throughout the globe. The situation is made more complex by the fact that women also identify with their culture and are offended by the arrogant gaze of outsiders who criticize their way of doing things. Since their sense of identity is integrally linked to the general attitude towards their community, their sense of dignity and self-respect often comes from being members of the larger community. In minority communities and third world communities that already suffer from discrimination, this sense of identity poses major problems for women. Some women have told the Special Rapporteur that they do not mind wearing the veil because they see the veil as subversive against imperialism. Cultural markers and cultural identity that allow a group to stand united against the oppression and discrimination of a more powerful ethnic or political majority often entail restrictions on the rights of women. Many indigenous communities do not allow women civil rights or property rights and yet they themselves are often a threatened

community, very vulnerable to the dictates of the more powerful groups in their respective societies. For this reason, the issue of cultural relativism requires a measure of sensitivity. Women's rights must be vindicated but women should win those rights in a manner that allows them to be full participants in a community of their choosing. Without respecting their right to community, any attempt to struggle for women's rights might create a backlash that will marginalize the women fighting for equal rights.

6. Nevertheless, many of the practices enumerated in the next section are unconscionable and challenge the very concept of universal human rights. Many of them involve "severe pain and suffering" and may be considered "torture like" in their manifestation. Others such as property and marital rights are inherently unequal and blatantly challenge the international imperatives towards equality. The right to be free from torture is considered by many scholars to be jus cogens, a norm of international law that cannot be derogated from by nation States. So fundamental is the right to be free from torture that, along with the right to be free from genocide, it is seen as a norm that binds all nation States, whether or not they have signed any international convention or document. Therefore those cultural practices that involve "severe pain and suffering" for the woman or the girl child, those that do not respect the physical integrity of the female body, must receive maximum international scrutiny and agitation. It is imperative that practices such as female genital mutilation, honour killings, Sati or any other form of cultural practice that brutalizes the female body receive international attention, and international leverage should be used to ensure that these practices are curtailed and eliminated as quickly as possible.

7. Other cultural practices that amount to discrimination likewise require international attention. Women's right to free and full consent to marriage, the right to equality with the partner throughout a marriage and at its dissolution, and the right to inheritance and property are also matters that are of serious concern. Article 16 of the Convention on the Elimination of Discrimination against Women clearly sets out the framework for marriage and family relations, based on the twin principles of freedom of choice and equality within the marriage. However, these principles are often in conflict with many religious and customary laws that regulate marriage and family life throughout the world.

8. Many of these laws and practices go against cherished international principles. For example, age of marriage that allows for child marriage is a clear violation of the Convention on the Rights of the Child, which is the most widely ratified Convention in the world, indicating international consensus on the norms contained in its provisions. The refusal to allow women the right to free and full consent also derogates from recognized principles of human rights contained in the International Covenants of Human Rights. In both these contexts, there should be maximum international and national pressure to ensure that religious and customary laws conform to universally accepted international norms.

9. With regard to other provisions relating to discrimination, different approaches have been suggested by different women's groups around the world to deal with the dilemma posed by the failure of international standards at the national level. For some, the notion of "progressive realization of rights" taken from the Committee on Economic, Social and Cultural Rights is seen as the appropriate strategy, with minimum core rights to be protected, such as those relating to the rights of children, the exercise of free choice and the protection of certain economic rights of

women. The recent approach of the South African Law Commission is one such attempt at spelling out the minimum core rights that should be protected by any law relating to the family. Another approach has been to give individuals and couples the right to choose the law that should govern their marriage so that they can opt out of traditional systems in favour of a law based on the Convention on the Elimination of All Forms of Discrimination against Women, if they wish to do so. This gives couples the right to exit systems that they feel are oppressive or discriminatory, which should be a fundamental right in any modern society. These types of approach should be explored in greater detail in the various societies where this plethora of traditional laws prevails and a deliberate attempt should be made to ensure that, in the next few decades, religious and customary laws are brought into conformity with international standards.

10. In pushing for such reform, the issue of cultural identity and cultural respect should also be taken into consideration. For this reason, women living in these communities should be the ones providing leadership and devising strategy. The lead for change and transformation must come from them if universal standards are to find resonance in these very diverse societies. It is important that the international community work closely with women from the religious and ethnic groups concerned, so that any change is seen to be acceptable to the vast majority of women who have to live with discriminatory and oppressive laws.

II. CULTURAL PRACTICES IN THE FAMILY THAT VIOLATE WOMEN'S RIGHTS

11. There are many cultural practices throughout the world that are violent toward women. In this section some of the more disturbing violations are described, in order to highlight the nature of the problem.

A. Female genital mutilation

12. Female genital mutilation (FGM), a deeply rooted traditional practice, is believed to have started in Egypt some 2,000 years ago. It is estimated that more than 135 million girls and women in the world have undergone FGM and 2 million girls a year are at risk of mutilation. FGM is practised in many African countries including Chad, Côte d'Ivoire, Ethiopia, Kenya, Mali, Nigeria, Sierra Leone, the Sudan, Uganda and the United Republic of Tanzania. In the Middle East, FGM is practised in Egypt, Oman, the United Arab Emirates and Yemen. It has also been reported in Asian countries such as India, Indonesia, Malaysia and Sri Lanka. Immigrants from these countries perform FGM in Australia, Canada, Denmark, France, Italy, the Netherlands, Sweden, the United Kingdom and the United States of America. It is suspected that FGM is performed among some indigenous groups in Central and South America.

13. The methods and types of mutilation differ according to each country and ethnic group. But, FGM may be broadly classified into four groups:

(i) Circumcision, or cutting of the prepuce or hood of the clitoris, known in Muslim countries as *sunna* (tradition). This is the mildest form, of FGM and affects only a small proportion of women. It is the only form of mutilation to be correctly termed circumcision, but there has been a tendency to group all kinds of mutilations under the misleading term "female circumcision".

(ii) Excision, meaning the cutting of the clitoris and all or part of the labia minora.

(iii) Infibulation, the cutting of the clitoris, labia minora and at least the anterior two thirds and often the whole of the labia majora. The two sides of the vulva are then pinned together by silk or catgut sutures, or with thorns, leaving a small opening for the passage of urine or menstrual blood. These "operations" are done with special knives, razor blades, scissors or pieces of glass and stone. The girl's legs are then bound together from hip to ankle and she is kept immobile for up to 40 days to permit the formation of scar tissue.

(iv) Intermediate, meaning the removal of the clitoris and some or all of the labia minora. Sometimes, slices of the labia majora are removed. The practice varies according to the demands of the girl's relatives.

14. The main reasons given for the continuation of this practice are custom and tradition. In societies where FGM is practised, a girl is not considered an adult or a complete woman until she goes through the "operation". Some societies believe that all persons are hermaphroditic and the removal of the clitoris makes the female a "pure woman". It is said also to test a woman's ability to bear pain and defines her future roles in life and marriage while preparing her for the pain of childbirth. FGM is also a result of the patriarchal power structures which legitimize the need to control women's lives. It arises from the stereotypical perception of women as the principal guardians of sexual morality, but with uncontrolled sexual urges. FGM reduces a woman's desire for sex, reduces the chances of sex outside marriage and thus promotes virginity. It is also deemed necessary by society to enhance her husband's sexual pleasure. A husband may reject a woman who has not gone through the "operation". Health reasons are also put forward as justifications for FGM. Unmutilated women are considered unclean. It is believed that FGM enhances fertility. It is considered that the clitoris is poisonous and that it could prick the man or kill a baby at childbirth. In some FGM-practising societies, there is a belief that the clitoris could grow and become like a man's penis. Even though FGM pre-dates Islam, religious reasons are given for the continuation of FGM in some societies.

15. Despite such justifications, the reality is that FGM is a practice that has many negative consequences. Owing to the unhygienic circumstances in which it is carried out, there are many short-term and long-term health hazards connected with it. Short-term complications include local and systematic infections, abscesses, ulcers, delayed healing, septicaemia, tetanus, gangrene, severe pain and haemorrhage that can lead to shock, damage to the bladder or rectum and other organs, or even death. Long-term complications include urine retention, resulting in repeated urinary infections; obstruction of menstrual flow, leading to frequent reproductive tract infections and infertility; prolonged and obstructed labour leading to fistula formation which results in dribbling urine; severe pain during intercourse; extremely painful menstruation; and psychological problems such as chronic anxiety and depression. The cycle of pain continues when cutting and restitching is carried out to accommodate sexual intimacy and childbirth.

16. During the colonial period, attempts were made to eradicate FGM. Christian missionaries in the Sudan tried to uproot the practice by including a message against FGM in their medical education programmes. When this was not successful, the British Colonial

Government resorted to legislation in 1946. Under the law, infibulation was made unlawful. But this did not stop the practice; rather it forced the families to have the procedure done in secret.

17. FGM was widely publicized in Western countries again in the 1970s by European and North American feminists. As a result, individual countries began to pass legislation that either regulated or banned FGM. Kenya condemned FGM in 1982 and passed formal legislation banning it in1990. Côte d'Ivoire promised the United Nations in 1991 to use its existing criminal code to prohibit the practice and passed a law prohibiting it in 1998. Sweden was one of the first countries specifically to condemn FGM. It banned health professionals from performing the operation in 1982. The United Kingdom passed the Prohibition of Female Circumcision Act 1985. The United States and Canada consider FGM as a type of harm that could qualify someone for protection under the Convention relating to the Status of Refugees. In 1997, the United States criminalized the practice of FGM under the Illegal Immigration Reform and Immigrant Responsibility Act. Australia, New Zealand, Switzerland, France[2] and the Netherlands are other Western countries that have made FGM a punishable offence. Recently, Burkina Faso, Gambia and Egypt took a stand against FGM.[3] The Central African Republic, Djibouti, Ghana, Guinea, Senegal, Tanzania and Togo have also passed legislation banning FGM in recent years.

18. Within the United Nations system, it was during the United Nations Decade for Women 1975-1985, that FGM again became an issue for discussion. As a result, the then Centre for Human Rights in Geneva, the 1993 World Conference on Human Rights in Vienna and the 1993 World Health Assembly condemned FGM as a violation of human rights. The Special Rapporteur on violence against women, in her preliminary report, recognized FGM as a form of violence against women that requires concerted international and national action for its eradication.

19. In many countries in Africa, there now exist strong indigenous movements aimed at stopping the practice of female genital mutilation. In Kenya there now exists a ceremony called "circumcision with words", celebrating a young girl's entry into womanhood but with words rather than through genital cutting. In Senegal, religious leaders have gone on village-to-village pilgrimages to stop the practice. It is only with enthusiastic support from the local community that this practice can eventually be eliminated.

20. Other forms of genital mutilation also exist that require mention. Tutsi women in Rwanda and Burundi undergo the practice of elongation of the labia the aim being to allow the women to experience greater sexual pleasure. In other societies the circumcision of men results in violation of women's rights. In West Timor, during the male circumcision ceremony, the young man being circumcised must then have sex with virgin girls chosen for the occasion.

B. Honour killings

21. Honour killings in Pakistan (originally a Baloch and Pashtun tribal custom) have recently received international attention. Honour killings are now reported not only in Balochistan, the North-West Frontier Province and Upper Sind, but in Punjab province, as well. They are also reported in Turkey (eastern and south-eastern Turkey but also in Istanbul and Izmir in western

Turkey), Jordan, Syria, Egypt, Lebanon, Iran, Yemen, Morocco and other Mediterranean and Gulf countries. It also takes place in countries such as Germany, France and the United Kingdom within the migrant communities.[4]

22. Honour killings are carried out by husbands, fathers, brothers or uncles, sometimes on behalf of tribal councils. The killing is mainly carried out by under-aged males of the family to reduce the punishment. They are then treated as heroes. The action is further endorsed by their fellow inmates in prison, if they are sent there, who wash these young boys' feet and tell them that they are now "complete" men. The act is regarded as a rite of passage into manhood. Ironically, it is not unheard of for female relatives to either carry out the murder or be accomplice to it.

23. It should be stated here that it is extremely difficult to collect accurate statistical data on honour killings in any given community. As honour killings often remain a private family affair, there are no official statistics on practice or frequency and the real number of such killings is vastly greater than those reported. The Washington Post Foreign Service reports that 278 murders were reported in Punjab in 1999, (8 May 2000) The Special Task Force for Sindh of the Human Rights Commission of Pakistan received reports of 196 cases of honour killings in 1998 and more than 300 in 1999. Every year more than 1,000 women are killed in the name of honour in Pakistan alone. During the summer of 1997, Khaled Al-Qudra, then Attorney-General in the Palestinian National Authority stated that he suspected that 70 per cent of all murders in Gaza and the West Bank were honour killings. They are usually attributed to natural causes. In Lebanon, 36 honour crimes were reported between 1996 and 1998, in Jordan 20 honour killings in 1998 and in Egypt 52 similar crimes in 1997. In Iraq more than 4000 women have been killed since 1991. The same report stated that between 1996 and 1998 in Bangladesh, about 200 women were attacked with acid by husbands or close relatives, but the number of deaths is unknown. In the West there are honour killings among immigrant communities. In the United Kingdom, INTERIGHTS has a special project that documents forced marriage cases and the threat of honour killings to British women who come from immigrant communities.

24. In a frequently cited case, a teenager's throat was slit in a town square in Turkey because a love ballad was dedicated to her over the radio. Other reasons include bringing food late, answering back, undertaking forbidden family visits etc. These women's lives are circumscribed by traditions which enforce extreme seclusion and submission to men. Male relatives virtually own them and punish contraventions of their proprietorship with violence.

25. It is not necessarily for love, shame, jealousy or social pressure that these crimes are committed. Economic and social issues also contribute to the rise in honour killings. Amnesty International claims that factors such as the progressive brutalization of society due to conflict and war, increased access to heavy weapons, economic decline and social frustration also lead to increased resort to the honour killing system

26. Cleansing one's honour of shame is typically handled by shedding the blood of a loved one; the person being murdered is typically a female, the murderer is typically a male relative, and the punishment of the male is typically minimal. Most significantly, the murderer is revered and respected as a true man.

27. Honour is a magic word, which can be used to cloak the most heinous of crimes.[5] The concept of honour is especially powerful because it exists beyond reason and beyond analysis. But what masquerades as "honour" is really men's need to control women's sexuality and their freedom. These murders are not based on religious beliefs but, rather, deeply rooted cultural ones. Family status depends on honour. In patriarchal and patrilineal societies maintaining the honour of the family is a woman's responsibility. In these societies, the concept of women as commodities and not as human beings endowed with dignity and rights equal to those of men is deeply embedded. Women are seen as the property of men and they have to be obedient and passive, not assertive and active. Their assertion is considered as an element which would result in an imbalance of power relations within the parameters of the family unit.

28. Women are seen to embody the honour of the men to whom they "belong". As such they must guard their virginity and chastity. Honour killings in West Asia have their roots in the crude Arabic expression "a man's honour lies between the legs of a woman". By controlling women's sexuality and reproduction, they become the custodians of cultural and ethnic purity. But, male control extends not just to a woman's body and her sexual behaviour, but also to all of her behaviour, including her movements and language. In any one of these areas, defiance by women translates into undermining male honour. The woman's body is considered to be the "repository of family honour". Alarmingly, the number of honour killings is on the rise as the perception of what constitutes honour and what damages it widens.

29. The concept of honour and its translation in different societies has brought about many forms of violence against women. It could be direct violence or indirect violence. In Sindh, Pakistan it takes the form of Karo-Kari killings. Karo literally means a "black man" and a Kari means a "black woman". They are people who have brought "dishonour" to their families through various forms of behaviour. There is no other punishment for a Kari but death. They are more often ritualistically killed and hacked to pieces, usually with the explicit or implicit sanction of the community. In cities and towns, Karo-Kari killings usually take place by shooting, mostly in private, based more on individual decisions. A man's honour is only partly restored by killing the Kari. He must also kill the man allegedly involved. But, in reality, as it is the Kari who is first killed, the Karo hears of the killing and flees. In order to settle the issue, an agreement can be made if both the Karo and the man whose honour is defiled agree. But, justice is not sought by finding out the truth and punishing the culprit. It is done by restoring the balance through compensating for damage. The Karo has to pay compensation to the family of the Kari in order for his life to be spared. Not surprisingly, the compensation can be in the form of money or the transfer of a woman or both.

30. Fake honour killings are often committed in order to get compensation or conceal other crimes. Men murder other men for reasons which are not connected with honour issues and then kill a woman of their own family as alleged Kari to camouflage the initial murder as an honour killing. This leads to further perversion of the honour system. If a woman refuses to marry a man, he may declare a man of her family as Karo and demand her in compensation for not killing him. He may even go as far as killing a woman in his family to lend weight to his allegation.[6] Not surprisingly, Karis remain dishonoured even after death. Their dead bodies are thrown in rivers or buried in special hidden Kari graves, whereas Karos are reportedly buried in the communal graveyards.

31. Another form of violence that is inflicted on women because of honour comes as a result of *satta-watta* or *addo baddo* marriage as they are known in Pakistan or *Berdel* as they are referred to in Turkey. This is a tradition in which siblings in one family are married to siblings in another. As it involves the exchange of unmarried girls between families for a smaller dowry, it puts an additional burden on women to abide by their father's marriage arrangements. If one of the couples married in this way decides to divorce, the other couple has to separate as well.[7]

32. Women who escape honour killings are often in a terrible situation, living in constant fear of their lives. Their right to liberty and movement is also restricted if they are endangered women. The predicament of women in the "golden cage" is another form of violence towards women. These are women who are being kept in jail in protective custody because their families have either vowed to kill them or have tried and failed to kill them. According to Jordanian law, a woman cannot be released from prison unless a male relative comes to sign for her. Since these women's male relatives rejected them in the first place, they are left to languish for years in jail. Some women even believe that they deserve such punishment. Some families sign a pledge not to harm the woman, but they kill her nevertheless.[8]

33. Many women resort to suicide for reasons of honour. This could be voluntary or involuntary suicide. They may commit suicide because of the social implications of dishonour to oneself or to one's family. They may also be invited to commit suicide by the family and, in most cases, they do commit suicide. Violence is not only directed at women who have dishonoured the family or community. Many human rights activists are also threatened as a result of their efforts to help victimized women.

34. Honour crimes are not confined to Muslim communities only. They occur in various parts of the world. In Brazil, men who kill their spouse after the wife's alleged adultery are able to obtain an acquittal based on the theory that the killing was justified to defend the man's "honour". Enormous pressure by women's groups resulted in the honour defence being removed from the books or judges' instructions to juries. However, juries continue to acquit men whom they feel have killed their wives for reasons of honour.

35. In many societies, wife murder cases (but not husband murder cases) soon came to be defended as crimes of passion. The emphasis in such cases was placed not on the nature of the crime itself, but on the degree to which the husband intended to commit it. The present Penal Code in Brazil explicitly states that, emotion or passion does not exclude criminal responsibility. In the past, defence lawyers devised the defence of honour as a new exculpatory strategy. This introduces the idea that the wife is the property of the husband and that honour is an aspect of self-defence. In Brazil, there have been contradictory decisions with regard to the honour defence.[9] One of the best-known cases dealing with the concept of the honour defence is the case of João Lopes. Lopes stabbed his wife and her lover to death after catching them together in a hotel room. The highest court of appeal in Brazil overturned the lower and appellate court decisions acquitting Lopes of the double homicide, stating that homicide on the grounds of defending one's honour was legitimate. When the case was retried, the jury again acquitted Lopes. Such honour defences, partial or complete, are found in the Penal Codes of Peru, Bangladesh, Argentina, Ecuador, Egypt, Guatemala, Iran, Israel, Jordan, Syria, Lebanon, Turkey, the West Bank and Venezuela. The attitude that a man has a right to kill when faced with adultery has not disappeared in Texas, in the United States, where, in October 1999,

Jimmy Watkins was sentenced to four months in prison for murdering his wife and wounding her long-time lover in front of their 10-year-old son. Analysis by some feminist scholars of the defence of "provocation" has shown that many wife murders have come within its ambit.

36. Many reasons have been put forward by the perpetrators for these honour killings. They range from supposed "illicit" relationships, to killing women for marrying men of their choice or for expressing a desire to choose a spouse. These are seen as major acts of defiance in a society where most marriages are arranged by the family. In addition, women are killed for divorcing abusive husbands or even if they are raped, as they are deemed to have brought shame on their family. Not surprisingly, men often go unpunished for such "crimes". Mere allegation is enough. The truth of the suspicion does not matter: what impacts on the man's honour is the public perception. Even if the perpetrator dreams up the woman's crime, it is enough that he perceived it to have taken place.

37. In a rare ruling, the Criminal Court of Amman, Jordan, sentenced two men to death for killing their 60-year-old next of kin to cleanse the family's honour. Although the family of the convicts dropped charges against them, the defendants did not benefit from a reduction in sentence because of the heinous nature of the crime. (Jordan Times, 23 April 1996). However, such cases are rare. In Pakistan, the case of Samia Sarwar is a case in point. Samia left her abusive husband and asked for a divorce. Her family threatened her. While in hiding she began an illicit relationship with a young soldier. Her parents finally said that they would negotiate a divorce and her mother, uncle and a stranger came to the offices of her lawyers. Within minutes the stranger opened fire killing Samia instantly. Despite the number of witnesses, despite the pressure brought by women's groups very little action has been taken against the family or the perpetrators. An attempt to outlaw honour killings was also stalled in the Pakistani Parliament. The refusal to prosecute crimes of honour remains one of the main concerns for everyone interested in issues relating to violence against women.

C. The pledging of girls for economic and cultural appeasement

38. The Devadasi system in India, where young girls are pledged for life to temples at an early age by their parents, is widely prevalent even today as a profession that has the sanction of religion and culture. The girls are pledged to a god or a goddess and become temple prostitutes. This is not always considered as a violation of human rights.[10]

39. Young children are initiated into the process of becoming Devadasis (sex workers or handmaidens of gods) even before they attain puberty. Economic compulsions and traditional beliefs are the two main reasons for the continuation of this practice. During famine, drought and epidemics, these young girls are married off to the priest to appease gods and goddesses. This bond forbids them to marry anyone else.

40. After a three-week-long dedication ceremony, the girl is given to her maternal uncle, who is likely to be the first among many abusers. Thereafter she leads a life of sexual slavery. Frequent pregnancies, abortions and deliveries render the majority of the Devadasi women physically weak and anaemic. Having multiple sexual partners they suffer from reproductive tract infections and sexually transmitted diseases.

41. The Deuki or the Devaki system in Nepal is related to the Devadasi system in India. In Nepal, girls are offered to deities either by their own families or by rich persons who buy a girl from her parents in order to be granted certain wishes or heavenly favours. She is then called a Deuki and engages in prostitution. There is a belief that sexual relations with a Deuki are auspicious. The girl often has no say in the transaction. Although the Children's Act in Nepal has forbidden this practice, it still continues in some parts of the country.

42. Trokosi or slaves of gods are found in Benin, Nigeria, Togo and Ghana.[11] Trokosi is part of a religious system in which a fetish priest mediates between the gods and the people. Young girls are enslaved to atone for the sins of a male relative. There is a belief that gods often punish a person's sin by causing the deaths of members of his family until the sin is pardoned. Until the early eighteenth century, livestock or other gifts were given to the priests in atonement. But, as girls could be used as domestic help as well as sexual partners, priests began taking young virgins as reparation instead. A girl is expected to serve a priest for a certain period, depending upon the severity of the crime and the policy of the shrine. The girl's family can redeem her after that period, but the priest demands a high price. If the priest dies, the girl becomes the property of his successor. But, if the girl dies without her family redeeming her, they are obligated to replace her with another virgin and thus the cycle can continue for generations. While enslaved, the women are forced to live in inhumane conditions. They are expected to work in the fields and the local market and also provide sexual services to the priests. They are beaten into submission if they resist. The Government of Ghana has denounced the Trokosi system and deemed the practice unacceptable. Although a law in Ghana was passed in June 1998 outlawing the practice, many women still remain enslaved.

43. Badi in Nepal is the caste practice of forcing young girls to become prostitutes. Such a system perpetuates trafficking and slavery of women and girls, even in modern times. The girls are often later sold into prostitution. The semi-nomadic caste of far western Nepal came from India and made their living by dancing, singing and entertaining the rich. Prostitution became the accepted form of income generation for the majority of Badi women. Discrimination reduces the Badi prostitutes' daughters' possibilities to have other occupations and often pushes them into prostitution. Some women are lured by the trafficker by promises of a job or a false marriage, or they are even kidnapped. In other cases, the trafficker directly approaches the parents and buys the girl from them.

44. Similarly, other practices such as *Kuzvarita* (pledging of girls for economic gain) or *Kuripa Ngozi* (appeasement of the spirits of a murdered person) violate women's human rights.

D. Witch hunting

45. Another cultural practice that is found mainly in Asian and African communities is witch hunting or witch burning. This practice is common in societies where there is a belief in superstition and the evil spirit. Sixteenth and seventeenth century England abounded with witches. Epileptic fits, illness and death were thought to be connected with witchcraft. Women branded as "witches" were tortured to confess. They were beaten and put on the racks and even burnt alive. The practice was brutal and directed against women.

46. The South African regions of Northern Transvaal and especially Venda report incidents of witch burning even today. The women branded as witches are stoned or beaten to death before being burnt. There is a belief that the body of the "witch" along with her magic paraphernalia must be completely destroyed to get rid of the effect of the "witch". While both men and women are accused of being witches, statistics show that women are twice as more likely to be so accused.[12] Although the Witchcraft Suppression Act helps people who are accused of being witches, many people who take violent action against "witches" are not prosecuted under the Act. There are many reasons why women are likely to be branded as witches. Jealousy has a big role to play in such accusations. This could be because of having more property, having healthier children or being better skilled at something. There is a saying in Venda that "all women are the same and all women are witches". It is believed that women have supernatural powers because of their ability to bear children. In some rural African societies no causal link is made between sexual intercourse and the conception of children. So, a woman falling pregnant can only be explained by supernatural occurrence. Like in some gypsy communities, women of Venda are considered impure because of their menstrual cycle. This concept is closely linked to the beliefs in witchcraft. Older women are more likely to be accused of being witches in Venda. Their inability to defend themselves and the physical appearance of old women often lend themselves to accusations of being witches. In Tanzania, an estimated 500 women are murdered every year and many others are harassed after being accused of witchcraft.[13] In Sierra Leone, if a woman giving birth to a child suffers from obstructed labour in spite of all magical and medicinal attempts, she is labelled a witch. She suffers rejection by her husband and by society. She is forced to confess her sin of having been the cause of all misfortunes that have befallen the community. Her death is believed to be a punishment for her crimes.[14]

47. In India, the West Bengal region reports many such incidents. When people suffer from illnesses, or if there is a lack of drinking water, or if there is a death in the family, or cattle die, or if there is a crop failure, or even if there is a natural calamity, the local magic doctor is approached. His orders are accepted unquestioningly. He usually declares a woman or women to be witches or "dayans" and suggests their elimination through death, to be rid of the evil spirit that is causing the problems. The magic doctor is paid a large sum of money for his services. In many cases, people who will inherit property by the death of the "witch" usually pay the magic doctor. Some people believe that the death will bring rewards in terms of property and some others truly believe in the evil spirit. The women declared to be witches are then killed or ostracized from the community. Most of the deaths are caused by stabbing, slugging or burning.

48. Nepal, too, reports cases of women being branded as witches. While different communities have different reasons for women being branded and killed as witches, some feminists argue that the entire concept of witches or witchcraft is a manifestation of a sexist, male-dominated society.[15] According to some scholars, the women who are accused of being witches are in most cases economically independent or without a male partner. In a male dominated society both factors are considered as potential threats.

E. Caste

49. In Bangalore, India when a social worker, who belonged to a low caste, prevented a child marriage, she was gang raped by five upper-caste men. They were acquitted after a three year trial because the judge ruled that they could not possibly have raped a lower-caste woman.[16]

50. According to a Human Rights Watch report[17] more than 250 million people worldwide suffer because of caste-based discrimination. It calls caste "a hidden apartheid of segregation", modern-day slavery. Caste is descent-based and hereditary. Exploitation and violence based on birth are found in many parts of the world. The most talked-about community are the Dalits or so-called untouchables of India. The Indian caste system, which is perhaps the world's longest surviving social hierarchy, is a feature of its social life. Corollaries to this caste system are found in other parts of South Asia, such as Nepal, Pakistan, Sri Lanka and Bangladesh.

51. Caste-based divisions of labour are central to several ethnic groups in many African countries. Burkina Faso, Senegal (Jaam), Nigeria (Osu), Burundi, Mali, Cameroon, Mauritania, Guinea, Guinea Bissau, Côte d'Ivoire, Sierra Leone, Gambia, Mauritius and Liberia are some of the countries in which marginalization because of social hierarchy is rampant. The Buraku or Eta of Japan are another group of people who are subject to exploitation and violence because of their birth into so called "unclean" communities. Caste differentiation is also perpetuated by the Asian and African diaspora.

52. Caste-based discrimination places culturally defined limits upon the individual in terms of mobility and interaction. Lower-caste people are excluded from villages and communities, which forces them to beg and scavenge in the streets. The upper castes have little or no interaction with lower-caste people in their day-to-day lives. The forms of discrimination vary according to each country and community, but are mostly exclusion from schools, religious sites and other public facilities, being forced to wear specific caste attire and to undertake specific occupations such as grave digging, sanitation jobs, manual scavenging and leather work, and being prevented from having physical interaction with so-called upper castes.

53. Lower-caste women often suffer double and triple discrimination because of their caste, class and gender. They face targeted violence, even rape and death, from State actors and powerful members of dominant castes, used to inflict political lessons and crush dissent within the community; or the women are used as pawns to capture their men folk. These women are gang raped, forced into prostitution, stripped, paraded around naked, made to eat excrement or even murdered for no crime of theirs. The hypocrisy of the caste system is revealed during these crimes, as "untouchability" does not operate then. The women also face discrimination through the payment of unequal wages, or work in slave-like conditions in bonded labour. They also face sexual discrimination in the workplace. Young girls are married off at an early age mainly as protection against sexual assault from upper-caste men.

54. There are formal protections in law, but discrimination persists.[18] Women suffer more because of their inability to access legal protection. Many women do not approach the police for fear of dishonour or that they will be dismissed or suffer further abuse.[19] Many Dalit women demanded that caste-based bias, atrocities and rape be recognized as racism at the World Conference against Racism in Durban, but were unfortunately not very successful.

F. Marriage

55. In many societies, young girls are prepared for marriage from a very early age. Girls are schooled from birth to be respectful, hardworking and self-sacrificing; respectful of their parents' wishes and choice of a groom; hardworking to ensure that the housework will be done and all other members of the family will be looked after; and self-sacrificing even to the extent of sacrificing their own lives.

56. Girls may be wed in some countries even before reaching puberty. There is great community pressure for daughters to be married at an early age. This could be because virginity is more readily guaranteed when the girl is younger. Also, the husband and his family can control a young girl more easily. This also gives a longer reproductive period for the girl to produce more children, or specifically more sons. Childhood or early marriages are disadvantageous for young girls for many reasons. As most girls are still receiving schooling when they are given in marriage, they have to curtail their education. If the marriage is patrilocal, the bride must go and live in her husband's house among strangers. She will have to submit to sex with an older man and her immature body must endure the dangers of repeated pregnancies and childbirth.

57. Forced marriages are a common occurrence in these societies. Relentless pressure and emotional blackmail are used by parents and relatives to force the young girl into an unwanted marriage. Their more extreme forms can involve threatening behaviour, abduction, imprisonment, physical violence, rape, and in some cases, murder. Forced marriages must be distinguished from arranged marriages, which operate successfully within many communities. According to the report of the Working Group on Forced Marriage,[20] a forced marriage is a marriage conducted without the valid consent of both parties, where duress is a factor. It is a violation of internationally recognized human rights standards and cannot be justified on religious or cultural grounds.[21] While both men and women experience forced marriages, it is primarily seen as an issue of violence against women. Marriages are forced upon young women for various reasons. Strengthening family links, protecting perceived cultural and religious ideals, preventing "unsuitable" relationships, protecting family honour and controlling female behaviour and sexuality are some of the reasons given by the Working Group on Forced Marriage. In some cases, if the woman or her family refuses a marriage proposal, the man or his family kidnaps the woman and attempts to formalize the marriage forcefully or rape her. They may also resort to character assassination by spreading rumours about her conduct. Acid attacks are another common act of violence against women when they spurn the advances or marriage proposal of a man. This practice is common in India and Bangladesh. In Sindh, to keep daughters in the paternal family, they are sometimes married to paternal cousins 10 to 20 years younger than themselves. The girl sometimes has to raise her would-be husband. If there are no such cousins the woman has to undergo the ceremony of *haq-baksh-wai*, which is marriage with the Quran.[22] In the same area, another custom, called *swara,* is practised whereby women are used as a commodity to settle disputes between tribes or clans. The receiving tribe can marry those women or keep them as sex slaves.[23]

58. The Penal Codes of Costa Rica, Ethiopia, Lebanon, Peru and Uruguay state that if a woman is raped and the perpetrator agrees to marry the victim, he will be pardoned.[24] Forcing the victim of rape to marry the perpetrator is common in many societies. The reason often given

is that it will protect the honour of the girl. Once she is raped, she becomes unmarriageable - an unthinkable condition in many societies. As a result "rape-marriages" are often entered into.

59. The actual sale of girls or women into marriage is not a common phenomenon but it still occurs. The notorious "mail-order bride" business, where women from developing countries are sold to "Western" men is just one example. Many women see this as a ticket to the developed West but the problem with such marriages is the high rate of abandonment. The majority of women involved at present are Filipinos, but there is a growing trade in women from Eastern Europe, Colombia and several South Asian countries.[25] The practice of Natha in India forces women to marry several times for the family to get money or property.

60. Dowries are gifts from the bride or her family to the husband and his family. In theory these gifts are given in a spirit of generosity, but this is often undermined by economic considerations. Many so-called dowry deaths occur when dowries are considered insufficient by the groom or his family. While dowries are mainly given in the Asian region, bride wealth is characteristic of Sub-Saharan Africa and involves the groom or his family giving gifts to the bride or her family. The abuse of such wives can ensue, as they are treated as commodities.

61. In many societies, women are subject to virginity tests on their marriage night. This customary practice degrades women and is a violation of their rights. Girls and women are expected to preserve both their physical virginity and their reputation for chastity. In Turkey, women are forced to undergo virginity examinations by their families and even the State for various reasons.[26]

62. During marriage, a wife may be treated like a slave. She is under the authority of the husband and she has to perform her "wifely duties" adequately if she does not want to be threatened physically and emotionally. In the majority of countries criminal law can be invoked for assault in marriage but not for rape. Most men believe that they have a right to sex whenever they like. While countries like Australia, New Zealand and the United Kingdom have changed the law with regard to marital rape to allow a husband to be prosecuted for raping his wife, this is not the norm. As most of these women are not allowed out of the house to earn an independent income, they cannot leave their marriages. International standards make clear that partners should have equal rights and responsibilities during marriage. However, in Iran, the husband is the head of the household according to civil law; a similar situation exists in Burkina Faso, the Dominican Republic, Gabon, Indonesia, Nigeria, Peru and the Philippines. In Burundi a woman is deemed inferior and her prestige depends on the amount of work she can do and the number of children she can bear.

63. Several other forms of threat or violence are used to ensure that women stay obedient within a marriage, for example the threat of the husband taking another wife or of divorce. In some countries polygamy is either legal or condoned. In others, bigamous marriages are conducted and when the truth comes out, the woman faces the wrath of the society even when she was unaware of the first marriage. *Mut'a* (temporary marriages) are conducted in Iran, where a man is entitled to take as many temporary wives as he can afford. In some societies the life of a divorced or abandoned wife can be even more painful and humiliating than the life she led when she was married. The stigma attached to a divorced woman keeps many women in

hostile marriages. Sometimes even the death of her husband does not end the violence. A widowed woman's life depends on her economic situation and the attitudes of her family, relatives and society. In Jordan, divorce is colloquially known as "throwing away"; in Nigeria a divorced or widowed woman is referred to as "bazawara", which means "a thing that has been used".

64. In some cultures in Africa, a widow is expected to continue to conceive children for her dead husband through sexual relations with his heir, usually a male relative such as a brother-in-law. Today, old customs such as *levirate* provide scope and justification for male relatives to abuse the widow mentally, physically and sexually in the name of tradition. Many widows and their daughters are seen as easy target for men because they have no male protector and are seen as "used" women. Mental and physical violence is inflicted by various traditions for widows, including limited and degrading dress codes, harmful and cruel diet codes, shaving of hair and limited participation in social events. In the most extreme of cases, according to the custom of *sati*, now outlawed in India, the bereaved widow is burnt on her husband's funeral pyre.

G. Discriminatory laws

65. During the Beijing Conference participating States made several commitments to repeal discriminatory laws against women.[27] However, even though in paragraph 232 (d) of the Platform for Action, the participating Governments agreed to "revoke any remaining laws that discriminate on the basis of sex and remove gender bias in the administration of justice", several laws continue to have discriminatory effects on women throughout the world.[28]

66. States have varying laws on the marital status of a woman. These regulations stipulate the legal age of marriage,[29] the legality of polygamy,[30] conditions for remarriage[31] and also unequal divorce rights[32] that have discriminatory effects on women. These provisions usually exist alongside constitutional guarantees of equality and non-discrimination.

67. Many discriminatory laws impinge upon the personal status of women. Women currently do not have the right to vote in Kuwait. Attempts to gain suffrage have been rejected by the National Assembly and women have recently initiated a court petition for review of the current status of the law. Some countries only define citizenship as passing through the male lineage. Countries with laws limiting citizenship in this way include Bangladesh, Kenya, Monaco and Venezuela. Until quite recently, the United States had a similar law, declared unconstitutional by the Supreme Court in September 1999.

68. Through various discriminatory statutory and constitutional regulations the economic status of women remains unequal. In many countries, inheritance laws remain linked to gender. Among the countries requiring male lineage for the inheritance of property or a male guardian for the exercise of joint custody of property are the Bahamas, Chile, most of the countries of sub-saharan Africa and Nepal as well as many indigenous groups and tribal groups around the world. In Uganda, women make up over 80 per cent of the agricultural labour force, but owing to a combination of customary law, Islamic law and statutory law only 7 per cent of women own land.[33]

69. In the area of family relations, many laws around the world, especially religious and customary laws, discriminate against women. Under some laws, consent to the marriage is given by a male guardian and not by the girl. Men are allowed to practise polygamy but women are not allowed to practise polyandry. Women are denied maintenance on divorce or inheritance on the death of the husband or father. They can be divorced unilaterally by their husbands and lose custody of their children after a certain age. Their administration of property may always require the husband's consent. In some countries so-called illegitimate children are denied any rights under the law and couples are denied the right to adopt them. In many countries girl children are married before they reach the age of 18. All these laws violate the Convention on the Elimination of all Forms of Discrimination against Women.

H. Son preference

70. Son preference, the preference of parents for male children, often manifests itself in neglect, deprivation or discriminatory treatment of girls to the detriment of their physical and mental health.[34] It is generally recognized to exist in most African and Asian countries, but varies in intensity and expression from one country to another.

71. In many regions of the world, entrenched patriarchal systems perpetuate bias and discrimination against females from the time they are conceived and even before they are born. But, economic considerations such as the traditional role of men with regard to agriculture and as property owners underlie this type of discrimination against women. This is seen in practices such as prenatal sex selection, female infanticide and gender differences in nutrition, health and education. While the phenomenon of son preference is a traditional practice that discriminates against women in most societies, female foeticide or infanticide are more prevalent in Asian than in African societies, where son preference is expressed mostly through health, nutritional and educational differences between the sexes.[35]

72. Many traditional practices are followed in order to avoid the birth of a daughter. Religious rituals such as prayer, fasting, and pilgrimages are believed to invoke a god to influence a child's sex. Traditional medicines and ceremonial rites are also commonly used to guarantee the sex of a child. But, now, with modern technology such as amniocentesis or sonograms, it is easier to determine the sex of the unborn child. This advancement of science and technology is exploited to select the sex of the child through aborting the unwanted child instead of merely monitoring the health of the foetus. Most often, it is the female foetus that is considered unwanted. UNICEF has provided the following statistics:

> A study of 10,000 abortions following gender tests by amniocentesis in Bombay, India revealed that 9,999 of the foetuses were female;
>
> A recent official survey in China revealed that 12 per cent of all female foetuses were aborted or otherwise unaccounted for, mainly the result of ultrasound screening throughout the country to determine the sex of unborn children;
>
> In one survey in Bangladesh, 96 per cent of women said that they wanted their next child to be a boy. Only 3 per cent wanted a girl.[36]

73. In India, where there is a strong societal preference for sons, many sex identification clinics have started up. Sex identification before birth was made unlawful many years ago but is commonly practised throughout India. It is argued that a girl will be a financial burden that will only increase as she grows. A modern saying in India, "Better 500 rupees now than 5,000 rupees later", compares the cost of sex selective technology and the future dowry.

74. In many cultures, the revulsion towards the birth of a daughter is so strong that female infanticide is accepted as a necessary evil. A baby girl may be deprived of food and water in the hope that she will die or she may even be killed. Such murders are often a part of a ritual. Scalding chicken broth poured down a newborn girl's throat is thought to increase the chance that the mother's next child will be a son.[37] In China, many families prefer that the one child they are allowed under the Sate one-child policy should be a son, for various reasons. Many baby girls are put in dying rooms and left to die without food or water. This wilful neglect of girls is common throughout their lives. Given the number of men in India and China at present, there should today be 30 million more women in India and 38 million more women in China than there are.[38]

75. Ceremonies and rituals, as on the occasion of the first haircut in north India or the disposal of the umbilical cord ceremony in Egypt almost always accompany the birth of a male child. These practices are rarely followed for the birth of a girl child. Their births not only go uncelebrated, but their lives are often undervalued. In Taiwan, daughters are commonly referred to by epithets such as "goods on which one loses" and "water spilled on the ground". In Arabic, the term *Abu-banat*, meaning the father of daughters, is an insult. In Uganda, when a girl is born, the family will announce it as the birth of a prostitute as she will be brought up to be married in exchange for cattle.[39] Parents and family members in certain areas of Pakistan use the phrase "May you die" as a term of endearment for their daughters. Such terms are never used with reference to a boy even as a joke.[40] These are some of the countless ways women learn how little they are valued.

76. Even if a girl child survives, she still has to face other discrimination. One such practice is the discrepancy in nutrition and health between girls and boys. UNICEF estimates that more than 1 million female babies die each year from malnutrition and abuse who would have lived if they were boys.[41] Many mothers stop breastfeeding a girl child early in order to try and get pregnant with a male. When a girl child is weaned earlier than recommended, she will not receive the nutrients necessary for her growth. The baby is also at great risk of infection because of malnutrition and the possible impurity of water and foods used in place of breast milk. If there are shortages of money and food, sons have priority treatment over the daughters. Daughters are trained to wait patiently while their father and brothers finish their meal, and eat what is remaining. Certain food restrictions also deny girls the necessary vitamins and calories. It is estimated that iron deficiency affects between 75 per cent and 96 per cent of girls over 15 in Africa and up to 70 per cent of girls between 6 and 14 years of age in India.[42] Many girls remain malnourished as teenagers and this has a crucial effect on their health as an adult. They also have unequal access to medical care.

77. Traditionally, females are not taken to hospital or to other medical providers until their illness reaches a critical stage. They are more often treated at home or taken to a traditional healer. More boys are immunized and treated by hospitals than girls and that girls between the

ages of two and five years have higher death rates than boys in many developing countries. A boy is more carefully taken care of to ensure that he will grow into a strong man to provide for the family.

78. Discrimination in education is another manifestation of son preference. Education incurs a cost. Parents who are unable to pay for the education of all their children will most often prefer to send their sons to school or university. Girls are kept at home to look after the house or other younger siblings. It is thought that boys need a better education to look after their families when they grow up. In societies where girls are married off at a young age, they are withdrawn from school even primary school. Those girls who are enrolled in school face discrimination there when teachers pay less attention to them. They also may not have enough time to concentrate on their studies because of their responsibilities when they come home. Girls are not expected to do well and that message is sent clearly to young girls. It is estimated that more than two thirds of illiterate people throughout the world are women.

79. Son preference not only has discriminatory and violent results for girls but also for their mothers. A woman is more likely to be made pregnant more times when she produces a girl child, thus risking her own health as well as that of her unborn child. She will also be forced to keep on producing until a male child is born.

80. There are various cultural, religious and economic reasons for the above-mentioned practices. In many societies, male children carry on the family lineage. The birth of a son is eagerly awaited in order to preserve the family name. There are instances where the husband will marry a second wife to ensure the birth of a son. Among many communities in Asia and Africa, men perform most religious ceremonies and sons perform burial rites for parents. Parents with no male children do not expect to have appropriate burials, which secure their peace in the next world. In agricultural societies, the need for a strong labour force is a factor which perpetuates son preference. The deprived economic status of women and the low esteem attached to women's economic contribution result in the preference for sons.

81. This is illustrated in a saying common in societies where son preference is prevalent: "To have a son is good economics and good politics, whereas bringing up a girl is like watering the neighbour's garden".

I. Restrictive practices

82. In many cultures, women are prevented from doing certain things merely because they are women. Various cultural practices restrict women's movement because of their gender.

83. Foot binding was an ancient custom in China, lasting from the tenth century until the twentieth century. This tradition involved tight, painful binding of the feet and toes with bandages to keep the feet as small as three inches. It was initially practised by the rich, but it quickly spread to poor families too. It was a status symbol to have daughters with tiny feet and they were considered more suitable for marriage as "lotus feet" confined girls to the house and thus ensured their virginity. It was partly powered by a sexual fetish. This process took several painful years and often caused infection, gangrene and even death. Most women became totally dependent on male relatives, thus reinforcing their subordinate position in life. Many laws were

passed to eliminate this practice but until the role of women in society changed, the practice remained. The efforts of the Government of China since the 1940s, with strong punishments for those who engaged in foot binding has resulted in the eradication of the practice.

84. Certain societies treat women as second-class citizens by placing conditions on their right of movement. This is done through a requirement of obedience to the husband or by providing male guardians. The Yemen Personal Status Act No. 20 of 1992 not only states that the wife should obey the husband, but also that she must move in with him to the conjugal home, permit him to have licit intercourse with her and not leave the home without his permission.[43] In Saudi Arabia women are not allowed to drive vehicles or to travel without a male companion. Article 32 of the 1992 Code of Marriage and Guardianship of Mali, states that the wife must obey her spouse. Algeria, Morocco and the Sudan have similar legal provisions. Laws requiring female obedience or subservience are often key to making women dependent on men and tied to abusive relationships.

85. In some cultures, menstruation is considered a polluting event. Women are isolated in outhouses at this time of menstrual cycle and not allowed to come into the main house or mingle with people. They are also restricted from eating certain kinds of food. They are considered unclean to perform religious or other practices during menstruation and are not allowed in public places.

86. In many countries it is considered immoral and indecent for women to appear in public without a head covering or without a prescribed dress.[44] In Morocco, women wear heavy grey veils and tight white gags over their mouths when they leave the house. In the Sudan, the fundamentalist military regime adopted public laws that require women to wear loose long dresses and cover their heads or be subjected to penalties that range from the amputation of their hands and feet to stoning to death. The Taliban regime, when it was governing Afghanistan, imposed *hijaab* and the *burqua* or the modest dress code in its strictest form and any violations of this regulation were harshly reprimanded. In Iran, women are compelled to wear the *chador* when they go out.

87. Be they the imposition of the *chador*[45] or of purdah, or of the *burqua*,[46] these dress codes or modesty codes are supposedly prescribed so as to desexualize women and thus protect them from violence. They are also to ensure that women's chastity is preserved so that they do not arouse the desire of men other than their husbands. However, in actual fact, they restrict women's movement and their right to expression. Health hazards connected to these garments are also common. Such dresses may cause asthma, high blood pressure, hearing or sight problems, skin rashes, hair loss and a general decline in mental condition. Men of course rarely have dress codes and dress requirements except under the Taliban regime.

88. For some women, however, these dress codes can also be liberating, depending on the context and on the political situation. For example, the veil was a powerful symbol against "Western" imperialism during the overthrow of the Shah in Iran.[47] Many women choose to conform to dress codes as a mark of their identity. The recent expulsion of the three Muslim schoolgirls from a school in France, and an Egyptian girl from a French school in Alexandria for wearing the headscarf denied the girls their right to their culture and the right to education. As

long as the choice of dress is made with the wearer's full consent, the rights of individuals are not compromised. However, if dress codes are forced on women and if punishment is meted out for not wearing very cumbersome attire, their rights of choice and expression are clearly denied.

J. Practices that violate women's reproductive rights

89. In the past, the protection of women's reproductive rights has not been a high priority among national or international bodies. Historically, the main duty of women was to bear men's children, preferably sons. The health issues connected with this process went unnoticed. The consequences of early, frequent and excessive childbearing were explained by fate, destiny and divine will rather than as the results of oppressive cultural and social practices and governmental neglect of reproductive health services.[48] As explained by Mahler, "The cause of maternal death often has some of its roots in a woman's life before the pregnancy. It may lie in infancy, or even before her birth, when deficiencies of calcium, vitamin D or iron begin. Continued throughout childhood and adolescence, these faults may result in a contracted pelvis and eventually in death from obstructed labour and often in chronic iron-deficiency anaemia from haemorrhage. The train of negative factors goes on throughout the woman's life: the special risk of adolescent pregnancy; the maternal depletion from pregnancy too closely spaced; the burdens of heavy physical labour in the reproductive period; the renewed high risk of childbearing after 35 and worse after 40; the compounding risk of grand multiparity; and running through all this the ghastly dangers of illegal abortion to which sheer desperation may drive her. All these are links in a chain from which only the grave or menopause offer hope of escape."[49]

90. There are various cultural practices unique to different parts of the world which are harmful for women and their reproductive systems. A violation of women's reproductive rights is violence against women. Lack of control over their sexual and reproductive lives and poor quality reproductive health care result in the violation of women's human rights.

91. A woman's ability to bear children is linked to the continuity of families, clans and social groups. This has been the object of regulation by families, religious institutions and governmental authorities. The ability to bear children may be advantageous because it gives a woman emotional satisfaction, but it can also be an oppression, a barrier or even an obstacle. Therefore, her control over her fertility is critical. In some societies women have virtually no say in the matter of postponing childbearing or having a child immediately after marriage. There is a great deal of pressure to produce a child within a reasonable time, but to become pregnant too soon is also scorned by the elders. While women are used as child producers, their reproductive cycle is not given much attention.

92. In Nigeria, a quarter of all women are married by the age of 14, one half by the age of 16 and three quarters by the age of 18. In Botswana, 28 per cent of women who have ever been pregnant were pregnant before reaching the age of 18. In Jamaica, one third of all births are to adolescent mothers, while in Peru, Colombia and El Salvador 13 or 14 per cent of young women aged between 15 and 19 are already mothers.[50] As a result of these teenage pregnancies, they tend to suffer various medical complications. It is estimated that without obstetric care, women who give birth before they reach the age of 18 are three times as likely to die in childbirth as are

women aged 20-29 in similar circumstances.[51] When a woman marries at a young age, she is likely to have more children, as her reproductive period is longer. This will result in adverse effects on her health, such as malnutrition.

93. In some parts of the world, women use herbal and other agents on the vagina to cause dryness, heat and tightness. They believe that men prefer "dry sex" in which women feel like virgins and because they think that female secretions are unclean. These substances can cause inflammation and erosion of the vaginal mucosa.[52] In some African countries and Indian states it is believed that having sex with a virgin can cure men who suffer from a sexually transmitted disease.[53] Certain dietary restrictions during pregnancy can harm both the woman and the child. In Sierra Leone, the pregnant women is advised to refrain from eating eggs and chicken as they are believed to cause frequent stools in babies, and also fish as it will result in mucus in babies. Such restrictions prevent the pregnant woman from getting essential proteins and vitamins. In some communities in Guatemala, the mother is given better care if she gives birth to a baby boy.[54] Certain activities are also deemed inauspicious. Standing at the doorway while pregnant is believed to cause obstructed labour and putting hands on the head to cause difficult or prolonged labour.[55]

94. In many countries there are no trained birth attendants. The traditional birth attendants are untrained and base their practices on various cultural beliefs, like evil spirits and supernatural powers. Various practices during child delivery cause harm to the mothers. Pressing the abdomen to force the baby out, pulling the baby out by force, giving a very hot bath to the delivering mother or even inserting certain herbs into the woman's vagina to accelerate the birth and isolating mothers who have just given birth are some of these practices. In the Southern Highland province of Papua New Guinea, women are expected to give birth unattended. It is believed that a woman's blood is a source of contamination, leading to illness and death.[56]

95. The fundamental dignity of women as human beings requires that they should not simply be regarded as child bearers and rearers but as complete individuals who are entitled to rule their own lives. The inability to control the very functions that differentiate women biologically from men is in itself a violation of human rights.

K. Beauty

96. In many societies, the desire for beauty has often affected women in diverse ways. In the "Western" world in the twenty-first century the beauty myth that a thin female physique is the only accepted shape is imposed on women by the media via magazines, advertising and television. This message is sent to young impressionable girls who strive to attain this perfect image without realizing that this image is often unrealistic. Advertisements continue to portray women in their traditional roles or as bodies to sell a product. This culture of impractical ideals results in many practices that cause a great deal of abuse to the female body. Cosmetic surgery of every part of the female body has led to health problems and complications for many women. In addition, eating disorders due to unhealthy food habits has also raised a great deal of concern in the Western world. Girls and women are disproportionately affected by eating disorders and cultural demands for thinness in the Western world. It is estimated that only 5 to 10 per cent of people with eating disorders are male.[57]

L. Incest

97. In many parts of the world, incest is culturally tolerated. Many countries do not list incest as a crime in their penal code. The form incest takes varies from forced masturbation, to sexualized beatings, touching of genitals, fellatio, cunnilingus and rape. Fathers, brothers, stepfathers, uncles, cousins and even grandfathers mostly engage in these practices. Women commit incest more rarely, but the number may be larger than realized. There are cases of parents or guardians inviting neighbours to commit incest or instances where the guardian knows of these crimes but turns a blind eye. Incest is practised by certain cults, like the Hindu Sakti sect in India, in the belief that it is a higher grade of sexual intercourse and an advanced step towards religion. In an endogamous Indian group called Baiga, incestuous marriage is practised.[58] The victims are mostly females. Many of the survivors of incestuous practices suffer from various psychological and physical disorders.[59] One of the main problems is the enormous emotional difficulty in reporting these crimes, especially in the face of disbelief and lack of punishment for the perpetrator.[60]

III. IDEOLOGIES THAT PERPETUATE CULTURAL PRACTICES THAT ARE VIOLENT TOWARDS WOMEN

98. Violence against women in the family in the name of culture is often sanctioned by dominant ideologies and structures within societies. These ideologies and structures emerged in a different era but continue to dominate public opinion and individual lifestyles, thus preventing the eradication of practices that are harmful to women.

A. The regulation of female sexuality

99. Many of the cultural practices discussed above are often based on a society's belief that the freedom of a woman, especially with regard to her sexual identity should be curtailed and regulated. Many scholars have pointed out that fear of female sexuality and its expression is responsible for many of the legal regimes that operate in the cultural sphere. Though the regulation of sexuality insofar as it affects the rights and responsibilities of others is a legitimate activity, the Cairo Programme of Action of the International Conference on Population and Development and the Beijing Declaration adopted by the Fourth World Conference on Women clearly state that individual women have the right "to a safe and satisfying sex life". This recognition of women as sexual beings is the culmination of many years of work by women doctors and activists in the area of reproductive health. Nevertheless, many cultural practices deny women these rights and ensure that women who transgress societal norms are punished severely.

100. In many cases, female sexuality is regulated by physical violence and force. Honour killings, described above, are the most obvious examples. Women who fall in love, commit adultery, request divorce, or choose their own husbands are seen as transgressors of the boundaries of appropriate sexual behaviour. As a result, they are subject to direct violence of the most horrific kind. The killing of women with impunity for these transgressions is perhaps the most overt example of the brutal control of female sexuality.

101. There are other areas where female sexuality is regulated by force. Most countries do not recognize marital rape as a crime, therefore sanctioning a certain measure of violence by the husband against the wife in the home. In a recent case in Mexico, the Mexican Supreme Court held that a husband's rape of his wife was not really rape, as marriage was legally premised on a permanent right of access to conjugal relations.[61] The limitation of women's sexual rights within marriage has often led to a great deal of abuse in the family. It is only recently and only in a few jurisdictions that marital rape is being recognized as a violent crime.

102. Women who transgress the boundaries of appropriate sexual behaviour, even in countries where honour killings do not take place, are often subject to violence. The notion of crimes of passion or provocation has often been used to justify murder of women who engage in sexual activity outside marriage. In addition, non-heterosexual orientations are also punished severely. Recently, in Zimbabwe, a young lesbian woman was locked up by her family and forced to submit to rape by an older man to "correct" her orientation. She was raped until she became pregnant.[62]

103. Child marriage, forced marriage and incest are additional forms of direct abuse that regulate female sexuality. Ignoring women and young girls as individuals capable of making choices about their lives, these practices subject many women to unwanted sex and rape, thus destroying their lives and their life potential.

104. Besides the overt use of force such as in the cases outlined above, female sexuality is regulated in more subtle ways by threats of force or the withdrawal of family benefits and protection. Women who fall in love with men of a different ethnic group, class or community are often subject to this kind of pressure to ensure that their behaviour conforms to the norms of the family. In these contexts, women's right to control their own lives counts for little, as do girls' and women's claims to liberty or freedom of expression, association, movement and bodily integrity. For example, the case of a 12-year-old Roma girl who was raped by a neighbour and then forced by her family to marry him is an example of the power of families to make girls and women conform.[63] The remedy of marrying the rapist is a common one and found in many jurisdictions. In such cases, the family's honour is violated and the family negotiates a compromise with the offender.

B. Masculinity and violence

105. In recent times, anthropologists and scholars have pointed out that, in certain contexts and in certain societies, being "masculine" in an ideal sense involves a tolerance of violence.[64] In many societies, the ideal of heroic masculinity requires acceptance of the notion of honour and the violent regulation of female sexuality. In fact, notions of masculinity are integrally linked to policing the behaviour of women. Heroic men in these societies use violence as a means of furthering justice and the social good, but they also use violence to ensure that women behave and are subordinate to their will.

106. These constructions of masculinity are present even within the family relationship. The deflowering of the virgin ceremony in many societies is an example of how masculinity, violence and the sexuality of women are symbolically constructed. The wedding night defloweration involves the married couple being taken to a room in the house. The relatives,

both male and female, wait in anticipation. Once the sexual act is consummated, the woman must bleed and this blood must be displayed to the rest of the family to prove that the woman was a virgin and that the man was not impotent. The display of the stained sheet becomes the cause of great celebrations. This public spectacle of a private moment perhaps illustrates the underlying assumptions that animate relationships between men and women in some societies.[65]

107. The heroic male personality whose masculinity is close to violence is not only the traditional man from Mediterranean and Middle Eastern societies that believe in honour. Recent studies show that this is often the dominant paradigm in the United States, for example, as reflected in popular culture. It is often manifested in the legacy of the "cowboy" and is often reflected in the modern cinema.[66] Outrage, anger and the use of violence as a legitimate means of resolving conflict is prevalent in many of the films that are made in most parts of the world.

108. It is true that not all constructions of masculinity are violent. There is also the powerful moral ideal of the self-restrained, disciplined, superior man of the Enlightenment, whose links with violence are far more nuanced, or the alternative models of masculinity that have emerged since the growth of the recent women's movement. However, unless there is public education and campaigns to try and counter the negative images of violent men as ideals for a society, the heroic male stereotype in many societies may still be the one carrying the gun. Such an ideal has serious consequences for women.

IV. STATE RESPONSIBILITY

109. In the past, States have been reluctant to intervene with regard to cultural practices in the family, often stating that this is a "private" matter and the State has no obligation in the domain of the "domestic". Throughout the world, domestic violence has rarely been prosecuted because of this private/public differentiation. However, since the 1980s, international standards have emerged that are very clear on the matter of domestic violence and the duties of States to eradicate violence in the family.

110. The Declaration on the Elimination of Violence against Women states clearly:

> "States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women."[67]

The Declaration goes on to say that States should "exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private actors".[68]

111. The Declaration also specifies the type of action a State should take to eliminate violence in the home: it must develop appropriate penal legislation; it must consider developing national plans of action to eliminate violence against women; in the light of the available resources it must provide social services for women victims of violence; it must take measures to ensure that public officials entrusted with implementing the laws have adequate training to sensitize them to the needs of women, and it must ensure that adequate resources are set aside in the government

budget to combat violence in the family. All these provisions are also contained in general recommendation 19 of the Committee on the Elimination of Discrimination against Women, where the legal obligation of State parties to the Convention on the Elimination of All Forms of Discrimination against Women is spelled out with regard to violence against women. Both these documents make it clear that, at the beginning of the twenty-first century, the action of State parties may be measured against international standards that clearly articulate a strategy for the elimination of violence against women in the family. By arguing that custom, tradition and religion cannot be invoked by State parties to defend violence against women in the family, international standards reject the cultural relativist argument that cultural practices that are violent towards women in the family should be shielded from international scrutiny.

112. It is often argued that the human rights approach, with its emphasis on law and punishment, may not be very productive in fighting violence against women on the ground. Many activists feel that the emphasis should be placed on education and health strategies that combat attitudes over the long term. However, history does have examples of how strong and effective laws have eliminated certain practices within a matter of years. In India, the enactment of the Special Act of 1870 eradicated the practice of female infanticide in the North West provinces. The Government in power criminalized the practice, monitored pregnancies and put parents in jail who engaged in the practice. By 1906, the Government withdrew the legislation because it was so effective. In China, the post-war regimes eradicated practices such as foot binding with the same determination. The existence of a criminal sanction ensures that parents have an excuse to spare their child such a practice. The law allows parents a way to avoid giving in to social pressure and custom. Without such a law, it is difficult to eradicate a practice in a generation.

113. However, there is no doubt that health and education strategies are extremely important for long-term change and the development of a community. A great deal of emphasis should be placed on such programmes in cooperation with local women's groups working for the eradication of harmful practices. The involvement of local women's groups and civil society in the movement to eradicate harmful practices is the only guarantee that the practice will not re-emerge in the future.

114. Many countries have developed interesting strategies to deal with cultural practices in the family that are violent towards women. Women's groups are developing innovative ways to challenge the use of tradition as a rationale for continued violence. Various projects demonstrate how women's groups work with the legislature, religious and other leaders, families and communities to change attitudes and practices. These projects involve conventional methods, such as legal action, legal changes and awareness-raising events, as well as unconventional activities. Family by family, community by community, these projects are building respect for the lives of women and girls and an understanding that gender-based violations are not integral to any tradition or culture.

115. One of the major developments in the legal field has been the reform of the Civil Code in Turkey, for which the women's movement has been lobbying for many years. The amended Civil Code abolishes the supremacy of men in marriage and allows women to have a say in all matters relating to the marriage, thus establishing the equality of men and women in the family.[69] Information provided to the Special Rapporteur by the Government of Denmark indicates that

the Danish Alien Act was amended in 2000 to prevent people from being forced into a marriage. The Government of Denmark has further taken steps to secure the immigration status of women brought to Denmark for the purpose of marriage, if these women leave their husbands because of family related violence. It is not only important to amend existing laws, it is also necessary to pass new laws, such as the law banning FGM in government hospitals in Egypt. Legal action in the courts is another area that has been developed to deal with gender-based violence. One such interesting case comes from Kenya, where two teenaged daughters obtained a court injunction restraining their father from forcing them to undergo FGM.

116. Legal measures are not enough if people are not educated about the social ills of harmful traditional practices. Awareness-raising activities are important to educate the community. In Tajikistan, a local NGO, Ghamkhori, is involved in combating violence against women through education.[70] Various social issues, such as reproductive health, human rights, gender relations and domestic violence are taught and discussed through role-playing, games, questions-and-answers, small group work, illustrated cards/posters, participative rural appraisal techniques and open-ended stories. These projects also train local religious leaders, medical personnel, police personnel and schoolteachers, as well as providing services such as women's centres and basic gynaecological services. The involvement of males in these programmes is common and necessary because they are termed the decision makers of the communities. In Denmark, the Ministry of Health has started an information campaign concerning FGM. The aim of the campaign is to prevent FGM of girls living in Denmark and to inform teachers, social workers and health care personnel about this subject.

117. The media too have an important role to play in providing information. But this information could be adverse to the women's rights agenda if it is not properly monitored. Media campaigns can backfire on occasion if they sensationalize the issues or if they only publish hostile reports and personal attacks about the concerned activists and lawyers. The Nepali organization Sancharika Samuha (Women Communicators Forum) has conducted various activities on media advocacy and gender and equality, through gender training, media monitoring, publications and talk programmes.[71]

118. Other creative ways have been used to invoke a sense of compassion and commitment to protecting women's human rights. One such success has been the alternative rites of passage project in Kenya.[72] It is a community initiative that supports the ritual coming of age ceremony without the practice of FGM. A new rite known as "Circumcision through words" has replaced FGM itself. The process includes a week-long programme of counselling and celebration. The participants are taught about their role as women, parents and adults and they are also educated in areas such as personal health, reproductive issues, hygiene, communication skills, self-esteem and peer pressure. While doing away with the dangerous practice, it captures the cultural significance of FGM. Such alternative rites have now spread to other countries like Guinea-Bissau and Gambia.

119. While torture-like practices that involve severe pain and suffering must be combated by the force of law and intensive programmes with regard to health and education, most countries are reluctant to adopt such a draconian approach towards religious and customary laws relating to the family. Since these laws are said to reflect deeply held values, many activists have felt that a different approach is necessary. State parties to the Convention on the Elimination of All

Forms of Discrimination against Women are under a definite obligation to bring their laws into consonance with international standards. This requires equality between the sexes within the family and freedom of autonomy for the partners. However, countries like South Africa have attempted to preserve the diversity of cultural practices by allowing for customary law while ensuring that certain minimum core rights are granted to women. In addition, couples are given the option on their wedding day of choosing customary law or a law that is inspired by documents like the Convention. This type of approach allows for women's rights to be safeguarded without completely overhauling the system of customary and personal laws that are often used as "flags of identity" by certain communities. States are under the obligation to prevent discrimination against women, but the approach towards eradicating that discrimination can vary depending on the realities of a given society.

V. RECOMMENDATIONS

A. At the international level

120. State parties should sign the Convention on the Elimination of All Forms of Discrimination against Women without reservation so as to ensure a commitment towards international standards of equality between the sexes.

121. State parties should refer to the Declaration on the Elimination of Violence against Women to provide effective guidelines for the eradication of violence against women in the family.

122. International and donor agencies should play an intensive and activist role in helping to eradicate torture-like cultural practices that cause severe pain and suffering to the victim.

B. At the national level

123. States should not invoke any custom, tradition or religious consideration to avoid their obligation to eradicate violence against women and the girl child in the family.

124. States should exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether these acts are perpetrated by the State or by private actors.

125. States should develop penal, civil and administrative sanctions in domestic legislation to punish violence in the family and to provide redress to women victims, even if the violence is associated with a cultural practice. The penal sanction should be strong and effective and not merely on paper.

126. States should develop national plans of action to eradicate violence in the family, particularly violence related to cultural practices through health and education programmes at the grass-roots level.

127. States should develop social services and provide shelters aimed at helping women victims of violence in the family to escape from human rights violations.

128. States should train all public officials in the administration of justice, education and health sectors to be sensitive and energetic with regard to issues relating to violence against women.

129. States should adopt all appropriate measures in the field of education to modify the social and cultural patterns of conduct that foster cultural practices in the family that are violent towards women.

130. States should collect data and statistics on the pervasiveness of cultural practices that are violent towards women, so as to ensure the development of appropriate strategies for their eradication.

131. States should include the measures they have taken to combat cultural practices that are violent towards women in their reports under relevant human rights instruments.

132. States should recognize the important role that women's groups and women's organizations play in the eradication of cultural practices that are violent towards women and give them all necessary support and encouragement.

Notes

[1] The Special Rapporteur would like to thank, and acknowledge the briefing papers prepared for this report by Ms. Saama Rajakaruna, Ms. Susana T. Fried and Ms. Alice M. Miller.

[2] A Malian woman was recently jailed for eight years for circumcising 48 girls, following a trial in Paris. (BBC Online Network, 17 February 1999).

[3] 10 February 1998. The Human Rights Information Network (HURINET).

[4] In the United Kingdom, in May 1999, the Nottingham Crown Court sentenced a Pakistani woman and her grown-up son to life imprisonment for murdering the woman's daughter, Rukhsana Naz, a pregnant mother of two children. Rukhsana was perceived to have brought shame on the family by having a sexual relationship outside marriage. Her brother reportedly strangled Rukhsana, while her mother held her down. (Amnesty International, "Pakistan: honour killings of girls and women" ASA/33/18/99, September 1999, p. 4). There is also the case of Zena Briggs who had married an English man in spite of her parents' decision to marry her to a cousin in Pakistan. To this day, a death sentence is hanging over the couple as Zena's parents have employed people to kill them (Amnesty International, "Pakistan: Violence against women in the name of honour" ASA/33/17/99, September 1999, p. 8).

[5] In the English language, honour means high esteem, respect, recognition, distinction, privilege, reputation or a woman's chastity or purity.

[6] The case of Amanullah illustrates this point. Amanullah married a woman who had earlier been fond of her cousin Nazir, a married man with eight children. As Nazir was unable to obtain

consent from her family to marry her, Nazir murdered Amanullah and then killed his own innocent sister and declared the two of them as Karo and Kari. After a brief prison term, Nazir was given Amanullah's wife in compensation for the supposed infringement of his honour. (Amnesty International, "Pakistan: Honour killings of girls and women" ASA/33/18/99, September 1999, p. 9)

[7] In the case of Shaheen, her husband allegedly set her on fire in December 1998 in a Satta-watta context. Their marriage had run into trouble and Anwar, her husband, wanted to send her home. But, Shaheen's brother, married to Anwar's sister, refused to send his wife home as well. Anwar found no other way to remove his shame than to kill his wife. (Amnesty International, "Pakistan: Honour killings of girls and women" ASA/33/18/99, September 1999, p. 6).

[8] Sirhan, a 35-year-old Jordanian is proud of having killed his sister by shooting her four times in the head. Her crime was to report to the police that she had been raped. Sirhan signed a pledge not to harm her. According to him, his sister committed a mistake, even if it was against her will. He considers it better to have one person die than to have the whole family die from shame. Sirhan served only six months in jail. (Information submitted to the Special Rapporteur by L.Beyer).

[9] A couple were married for 16 years and all was well until the wife got a job and started to come home late and refused to "pay her conjugal debt". The husband killed her and was acquitted on the legitimate defence of honour. The decision was upheld on appeal. (Information submitted to the Special Rapporteur by P.Turgut).

[10] "The Devadasis of Kudithini village: victims of a denigrated culture", Groots Newsletter, Working Women's Forum 1998, at www.ashanet.org/library/articles/devadasis.199812.html

[11] "The Trokosi: religious slavery in Ghana" by Obenewa Amponsah at www.anti-slavery.org/global/ghana/

[12] A. de. V. Minnaar, D. Offringa, C. Payze,To Live in Fear: Witchburning and Medicine Murder in Venda, Human Sciences Research Council, 1992.

[13] Submission by HelpAge International to the Special Rapporteur, September 2001.

[14] Study on traditional practices affecting the health of women and children, final report by the Special Rapporteur of the Sub-Commission, Ms. Halima Embarek Warzaz, July 1991, (E/CN.4/Sub.2/1991/6).

[15] Suchitra Choudhury, "The woman as witch", The Statesman, 7 November 1993.

[16] www.womensenews.org/article.cfm/dyn/aid/448/context/archive

[17] *Caste Discrimination: A Global Concern.* A report by Human Rights Watch for the United Nations World conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Durban South Africa, September 2001, August 2001

[18] The Buraku system was abolished in 1871 by the British. In independent India it was constitutionally abolished in 1950. Even though the constitution prohibits discrimination on the basis of caste in Nepal there is an exception for Hindu religious practices.

[19] "India: violence against women - a double discrimination", Amnesty International, ASA 20/029/2001.

[20] Published by the (United Kingdom) Home Office Communications Directorate, June 2000.

[21] See Universal Declaration of Human Rights, article 16; Convention on the Elimination of All Forms of Discrimination against Women, article 16; General Recommendation No. 21 of the Committee on the Elimination of Discrimination against Women.

[22] The Review, 4 - 10 March, 1999.

[23] The concept that a woman could be enslaved as a wife was internationally recognized in the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956.

[24] www.equalitynow.org/beijing_plus5_violence_eng.html

[25] Taylor, D. Servile Marriages: Institutionalised Slavery, Anti-Slavery Report 1994,

[26] *A Matter of Power: State Control of Women's Virginity in Turkey*, Human Rights Watch, vol 6, No 7, June 1994

[27] Report of the Fourth World Conference on Women, Beijing, annex 1, resolution 1, 1995 United Nations Publication, Sales No. E.96.IV.13.

[28] "Words and deeds: holding Governments accountable in the Beijing + 5 review process" at www.equalitynow.org/action_eng_16_4.html.

[29] The legal age of consent for marriage is different for men and women and is usually lower for women. This is the case in countries like Colombia, Japan, Mexico and Turkey.

[30] Article 7 of the Mali 1992 Code of Marriage and Guardianship allows men to opt for polygamy. They can also do so in Algeria and Tanzania.

[31] Article 158 of the Mexican Civil Code provides that a woman cannot remarry until 300 days after the dissolution of the marriage.

[32] In Israel, the divorce of Jews is decided by rabbinical courts. In the case of Plonit v Plonit the High Rabbinic Court in 1995 and the Supreme Court in 1997 upheld the decision that divorce is granted entirely on the decision whether the man wants it.

[33] Equality Now, "Uganda: exclusion of women from land ownership - the lost cause", Women's Action, August 2000 at www.equalitynow.org/action_eng_17_1.html

[34] Report of the Working Group on Traditional Practices affecting the Health of Women and Children to the Commission on Human Rights at its forty-second session in 1986 (E/CN.4/1986/42), para. 143.

[35] Preliminary report of the Special Rapporteur of the Sub-Commission, Ms. Halima Embarek Warzazi,, on traditional practices affecting the health of women and children (E/CN.4/Sub.2/1995/6).

[36] Overview of UNICEF activities relating to violence against women and children within the framework of the Convention on the Rights of the Child; correspondence with the Special Rapporteur.

[37] A Johnston, S. R. Burnett and S. C. Bott, Toward the 21st Century, The Population Institute, No. 1, 1995.

[38] Roxanne Carillo, Battered Dreams: Violence against Woman as an Obstacle to Development, New York, UNIFEM Sales publication No. WE 011, 1992.

[39] Final report of the study on traditional practices affecting the health of women and children by the Special Rapporteur of the Sub-Commission, Ms. Halima Embarek Warzazi (E/CN.4/Sub.2/1991/6).

[40] Pakistan - Girl Child in Especially difficult circumstances - report for presentation at SAARC meeting on GCEDC, 1995.

[41] Note 36 above.

[42] Note 35 above.

[43] Article 40.

[44] These countries include Afghanistan, Iran, Algeria, Turkey, Morocco and Malaysia.

[45] A scarf that covers the hair, forehead and neck.

[46] A garment that covers women from head to toe with only a small opening near the eyes; sometimes that area is covered with a mesh cloth.

[47] Rifffat Hassan, Women's Rights in Islam: From the I.C.P.D to Beijing.

[48] Rebecca J. Cook. International Protection of Women's Reproductive Rights. New York University, Journal of International Law and Politics, vol 24, Winter 1992, No. 2, p. 645.

[49] Note 45 above, p. 647.

[50] Women of the World: Laws and Policies affecting their Reproductive Lives - Latin America and the Caribbean. The Centre for Reproductive Law and Policy, 1997, p. 13.

[51] Rebecca J. Cook and Mahmoud F. Fathalla, "Advancing reproductive rights beyond Cairo and Beijing", in International Family Planning Perspective, vol. 22, No. 3, September 1996, p. 117

[52] Facing the Challenges of HIV, AIDS, STDs: A Gender-Based Response 1995, KIT, SAFAIDS, WHO.

[53] Dr. Nafis Sadik, "Decisions for development: women, empowerment and reproductive health", The State of World Population 1995, United Nations Population Fund, p. 49.

[54] Information provided to the Special Rapporteur by the Government of Guatemala.

[55] Study on traditional practices affecting the health of women and children, Final report of the Special Rapporteur of the Sub-Commission, Ms. Halima Embarek Warzazi, July 1991 (E/CN.4/Sub.2/1991/6).

[56] Note 52 above, p. 45.

[57] Anorexia Nervosa and Related Eating Disorders, Inc. at www.anred.com/causes.html.

[58] Lloyd de Mause, "The universality of incest", Journal of Psychohistory, Fall 1991 vol. 19, No. 2.

[59] Severe somatic reactions, depersonalization, self-hatred, hysterical seizures, depression, borderline personality formation, promiscuity, sexual dysfunctions, suicide, self-mutilation, night terrors and flashbacks, multiple personalities, post-traumatic stress disorders, delinquency, bulimia and the overall stunting of feelings and capacities. Lloyd De Mause, "The universality of incest" Journal of Psychohistory, Fall 1991, vol. 19, No. 2.

[60] In *Shri Satish Mehra v Delhi Administration and Another*, July 1996, the Supreme Court of India thought that it was incredible to accuse the father of raping his three-year-old girl and instead accused the mother of levelling false accusations to take revenge on her husband for an unhappy marriage. Broken People: Caste Violence against India's "Untouchables", Human Rights Watch 1999, United States of America.

[61] See Eduardo Moline y Veda, "Mexico: Supreme Court legitimizes rape of spouses, critics say" http//members. aol.com/ncmdr/ipsnews/html, 16 June 1997.

[62] See Amnesty International, Crimes of hate, conspiracy of silence: Torture and ill-treatment based on Sexual Identity, New York, Amnesty International, 2001, p. 39.

[63] Testimony at the Women at the Intersection of Racism and Other Oppressions: A Human Rights Hearing, organized by the Center for Women's Global Leadership at the NGO Forum during the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Durban, 2001.

[64] See Suzanne E. Hatty, "Masculinities and Violence" (London/New Delhi, Sage, 2000) or A. Cornwall and Nancy Lindisfarne ed. "Dislocating Masculinities" (New York, Routeledge, 1994).

[65] Nancy Lindisfarne, "Variant masculinities, variant virginities, rethinking honour and shame" in A. Cornwall and others, ed. "Dislocating Masculinities", p. 82.

[66] See Suzanne E. Hatty, note 64, chaps. 4 and 5.

[67] Declaration on the Elimination of Violence against Women, proclaimed by the United Nations General Assembly in resolution 48/104 of 20 December 1993.

[68] Article 4 (c) of the Declaration.

[69] www.whrnet.org/news.html.

[70] Information provided by Colette Harris, Programme Director, Women in International Development, Office of International Research and Development, Virginia Technical University, United States of America.

[71] Information provided by Bandana Rana, Executive President of Sancharika Samuha at the Asia Pacific regional consultation with the Special Rapporteur, 2001.

[72] With an End in Sight: Strategies from the UNIFEM Trust Fund to Eliminate Violence against Women, United Nations Development Fund for Women, 2000.